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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/830,403	06/12/2001	Eric Johnstone Cook	025455-093	7025

7590 08/28/2002

Alan E Kopecki  
Burns Doane Swecker & Mathis  
PO Box 1404  
Alexandria, VA 22313-1404

EXAMINER

ADDIE, RAYMOND W

ART UNIT PAPER NUMBER

3671

DATE MAILED: 08/28/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

8

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/830,403	COOK ET AL.	
	Examiner	Art Unit	
	Raymond W. Addie	3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 30 July 2001.

2a) This action is **FINAL**.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-16 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-16 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5,7.

4) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 5-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Barbulescu WO 98/24981 in view of Berrange # 3,788,757.

Barbulescu discloses a soil compaction roller (5) comprising:

A multi-sided, out-of-round, peripheral compacting surface (7) which can roll over a soil surface which is to be compacted. The compacting surface being defined by a plurality of angularly spaced, salient points (7a), and a corresponding plurality of compacting faces (7). Each compacting extending continuously between 2 adjacent salient points. See col. 3.

What Barbulescu does not specifically recite is providing the compacting faces that are outwardly convex. However, Berrange '757 teaches a compacting roller (10) for compacting soil. Said roller (10) having a plurality of outwardly convex, compacting faces (14), extending between salient points disposed radially about said roller.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to provide the compacting roller of Barbulescu, with outwardly convex compacting faces, as taught by Berrange, in order to provide the compactor with means to cross underground utilities, with damaging said utilities or conduits.

See Berrange col. 1, lines 41-50.

In regards to Claims 3, 6, 7, 10-14 Barbulescu discloses a self propelled, compacting machine (1) comprising at least 1 pair of side-by-side, on a common axle or on independent axles, soil compaction rollers (7) having salient points are equi-angularly spaced about a central axis and equi-distant from said central axis (6) and that the compacting faces comprise a plurality of flat facets, which in combination form a generally, outwardly, convex-shape. Berrange further discloses the roller may comprise integrally formed, 1<sup>st</sup> series of wear plates, defining the salient points and a 2<sup>nd</sup> series of wear plates defining the compaction faces. See Figs. 1-4; Col. 2, lines 49-57, Col. 3, Col. 4, lines 1-16.

In regards to Claims 5, Berrange teaches providing the roller with smoothly curved compacting faces.

2. Claims 4, 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barbulescu in view of Berrange, as applied to claim 1 above, and further in view of Cobb et al. # 4,237,984. Barbulescu in view of Berrange discloses essentially all that is claimed, to include a plurality of spokes (12) connecting the wear plates (14) to a central hub 38). What Barbulescu in view of Berrange do not disclose providing stiffening ribs and separate, individual wear plates in said 1<sup>st</sup> and 2<sup>nd</sup> series of said wear plates. However, Cobb et al. teaches a compacting roller (10) having a plurality of salient points (20) defined by a series of wear plates (22/23), and further defining compacting faces of a 2<sup>nd</sup> series of wear plates, disposed between said salient points (20). Said compacting faces being symmetrical about a radial bisector of 2 salient points defining said compacting faces. Said wear plates being supported by stiffening ribs (21). Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to provide the compacting roller of Barbulescu in view of Berrange with individual wear plates and stiffening ribs, as taught by Cobb et al., in order to provide a means to adjust the dimensions of the compacting faces. See Cobb et al. Col. 2, line 35-col. 4, line 6.

3. Claims 15, 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barbulescu in view of Berrange as applied to claim 11 above, and further in view of Berrange WO 97/04179.

Barbulescu in view of Berrange discloses essentially all that is claimed, except for providing auxiliary motive means to propel the compacting roller. However, Berrange '179 teaches a compacting roller (20) which can be a single self-propelled machine, or can be connected to towing tractor, via a coupling means (9). See Fig. 3; Page 15-16. Berrange '179 further discloses the use of auxiliary drive means (12, 23). Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to provide the compacting machine of Barbulescu in view of Berrange with auxiliary drive means, as taught by Berrange '179, in order to provide necessary traction means to propel the compacting rollers.

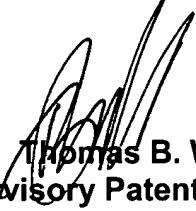
### ***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Clifford # 3,950,110 discloses a non-circular compaction roller. Jefferey # 4,147,448 discloses a compaction roller having salient points. Cobb et al. # 4,237,984 discloses a compaction roller. Campbell # 5,348,418 discloses an rotary compacting wheel. Roberts # 5,860,764 discloses a compacting roller. Thomas et al. # 5,607,255 discloses a milling machine having wheel with salient points. Barbulescu # 6,379,081 B1 is an US equivalent to WO 98/24981.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raymond Addie whose telephone number is (703) 305-0135. The examiner can normally be reached on Monday-Friday from 8:00 am to 2:00 pm, 6-8 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached on (703) 308-3870. The fax phone number for this Group is (703) 305-8623.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1113.



Thomas B. Will  
Supervisory Patent Examiner  
Group 3600

RWA  
8/23/2002